

Appl. No. : **10/719,932**
Filed : **November 21, 2003**

REMARKS

The Office Action mailed June 14, 2006 has been received by Applicants. Claims 1-5, 7-9, 11-12, and 15-20 were rejected under 35 U.S.C. 102(b) as being anticipated by Katagiri et al. (U.S. Patent No. 5,498,147). Claims 1-5, 7-9, 11-12, and 15-20 were rejected under 35 U.S.C. 102(b) as being anticipated by Rau et al. (U.S. Patent No. 6,902,698). Claims 6, 10, and 13-14 were rejected under 35 U.S.C. 103(a) as being unpatentable under Katagiri et al. or Rau et al. in view of Watanabe (U.S. Patent No. 4,370,119). Finally, Claims 1-20 were rejected on the grounds of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,902,698 to Rau et al.

In response to the Office Action, Applicant has cancelled Claims 2-4, 8-10, 12-18, and 20. New Claims 21-34 have been added for consideration. Support for new independent Claim 21 is found in originally filed Claim 4. Support for the new dependent Claims 22-34 is found in originally filed Claims 2, 3, 8-10, 12-18, and 20. Applicant respectfully requests the Examiner to reconsider and withdraw the outstanding rejections in view of the amendment and the following remarks.

Rejections under 35 U.S.C. § 102(b)

The Examiner rejected Claims 1-5, 7-9, 11-12, and 15-20 under 35 U.S.C. 102(b) as being anticipated by Katagiri et al. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Withdrawal of this rejection is requested because Katagiri et al. do not teach each and every element set forth in independent claims 1 and 21.

With regard to claims 1 and 21, Katagiri et al. discloses a hydraulically activated press device. The device in Katagiri includes cylinder assemblies that lift up supporting devices (31). The cylinder assemblies (e.g. 40, 41, 42, 43, 44) comprise two cylinders (50, 40) located one above the other. Each supporting device (31) carries a punch carrier (21). The punch carrier (21) in turn carries a punch (10) to an end press position.

However, the upper supporting device (31) for the upper cylinder (40) is arranged on the piston (43) of the upper cylinder (41). The lower supporting device (32) for the lower cylinder

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(50) is arranged on the piston (53) of the lower cylinder (51). Thus, the upper supporting device (31) is not carried or arranged on the lower supporting device (32), as required by the independent claims. Therefore, Katagiri et al. does not anticipate Claims 1 and 21.

Additionally, independent Claim 21 recites that at least one of the “supporting devices comprises a supporting device element, which sticks out or protrudes from a side of said supporting device in a direction toward said central axis carrying an assigned punch carrier.” This additional limitation is not taught or suggested by the Katagiri et al. reference. Katagiri et al. fail to teach the feature of a supporting device element which sticks out or protrudes from the supporting device in a direction toward the central axis carrying an assigned punch carrier.

Furthermore, dependent claims 5 and 7 recite that the supporting device of the present invention, especially in connection with the punch carrier height adjusting device, is dimensioned and arranged as an end stop for the final press position. In section 2 of the Office Action, the Examiner took the position that “the punches are adjustable by the piston (42, 52) and the cylinder (41, 51) and are controlled by the height stoppers formed by the shoulder of the carrier plates and the support platens (52, 511; 42, 411).” However, Katagiri et al. fails to teach the feature of a supporting device which acts as an end stop for the final press position. The punches (10) on the device of Katagiri et al. are height adjusted by a cylinder/piston arrangement. As soon as there is any hydraulic oil within the cylinder to lift the punch up into a desired height position, or end position, the punch will be carried by the pressure of the hydraulic oil and not by the pressure of the end stop. Thus, the punches of Katagiri et al. are carried to their pressing end positions in relation to the base plate by hydraulic oil pressure from the cylinders under corresponding pistons. This is possible in Katagiri et al. because Katagiri et al. disclose a press using relatively low pressing forces. Katagiri et al. fail to teach the supporting device is dimensioned and arranged as an end stop for the final press position.

Rejections under 35 U.S.C. § 102(e)

Claims 1, 5-7, 11, and 19

The Examiner rejected Claims 1-5, 7-9, 11-12, and 15-20 under 35 U.S.C. 102(e) as being anticipated by Rau et al. It may be noted that the publication of the earlier Rau et al. application was less than one year prior to the filing of the present application. Applicant

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submits herewith a Declaration under 37 C.F.R. § 1.132 by inventors Walter Rau, Johann Meyer, and Michael Silbermann to remove the cited Rau et al. reference from prior art with respect to Claims 1, 5-7, 11, and 19. The inventors of the '698 Patent are the same as the inventors of the subject matter present in Claims 1, 5-7, 11, and 19 of the present application. Therefore, the '698 Patent does not qualify as prior art with respect to those claims.

Claims 21-34

Because new Claim 21 incorporates the subject matter found in originally filed Claim 4, the issues raised by this rejection will be addressed in this response. Withdrawal of this rejection is requested because Rau et al. do not teach each and every element set forth in independent claim 21.

Claim 21 incorporates the limitation "wherein at least one of said supporting devices comprises a supporting device element, which sticks out or protrudes from a side of said supporting device in a direction toward said central axis carrying an assigned punch carrier." Rau et al. fail to teach any embodiment wherein a supporting device element sticks out or protrudes from the supporting device in a direction toward said central axis carrying an assigned punch carrier. Nor does Rau et al. make any suggestion to provide a supporting device element as recited in Claim 21. Rau et al. is completely silent as to the claimed feature of a supporting device element as recited in Claim 21.

Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims 6, 10, and 13-14 under 35 U.S.C. 103(a) as being unpatentable under Katagiri et al. or Rau et al. in view of Watanabe. The limitations from original claims 10, 13, and 14 can now be found in dependent claims 26, 28, and 29. In light of the comments made above with respect to the anticipation rejections, withdrawal of this rejection is requested. As discussed above, Rau et al. is no longer valid prior art with respect to claim 6. Also, Katagiri et al. fails to disclose each and every claim limitation in independent claims 1 and 21 and Rau et al. fail to disclose each and every claim limitation in the independent claim 21. Watanabe fails to make up for the deficiencies of the Katagiri et al. and Rau et al. references. Therefore, no claim is made obvious in view of the teachings of Watanabe.

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Double Patenting

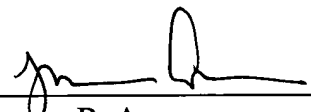
The Examiner rejected Claims 1-20 on the grounds of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,902,698 to Rau et al. Because claims 1, 5-7, 11, and 19 remain pending in the case, the Applicant will file a Terminal Disclaimer with respect to the '698 Patent once an agreement as to the allowability of the present claims is reached.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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